

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

FREDERICK F. FAGAL, JR.	:	
	:	
<i>Plaintiff,</i>	:	
	:	
v.	:	CIVIL ACTION
	:	
MARYWOOD UNIVERSITY,	:	NO. 3:14-cv-02404-ARC
	:	
<i>Defendant.</i>	:	(JUDGE CAPUTO)
	:	
	:	<u>ORAL ARGUMENT REQUESTED</u>

MOTION FOR SUMMARY JUDGMENT BY PLAINTIFF

Plaintiff Frederick F. Fagal, Jr. hereby moves for summary judgment against Defendant Marywood University on the following issues:

1. Defendant breached its contract with Plaintiff by suspending Plaintiff without any oral or written warning or any opportunity for monitored assistance.
2. Defendant breached its contract with Plaintiff by suspending Plaintiff when there was no immediate harm to himself or to others threatened by his continuance in his faculty position.
3. Defendant breached its contract with Plaintiff by having Defendant's president suspend Plaintiff instead of its Vice President for Academic Affairs.

4. Defendant breached its contract with Plaintiff when Defendant's president recommended the termination of Plaintiff's employment and tenure even though Defendant had taken no remedial actions to resolve any issues that it believed had led to Plaintiff's suspension.

5. Defendant breached its contract with Plaintiff when Defendant's president charged Plaintiff with violating Defendant's "Civil Rights" policy even though nobody had filed a complaint against Plaintiff under Defendant's "Civil Rights Complaint Procedures" policy.

6. Defendant breached its contract with Plaintiff by failing to convene an ad hoc faculty committee to review Plaintiff's suspension despite Plaintiff's multiple requests that Defendant do so.

7. Defendant breached its contract with Plaintiff by terminating Plaintiff's employment on April 3, 2012 before any ad hoc faculty committee recommended doing so.

8. Plaintiff is entitled to compensatory damages of \$755,395.

This motion is supported by a Statement of Material Facts and exhibits being filed contemporaneously. This motion is further supported by a brief being filed contemporaneously. A proposed form of order and a certification of non-concurrence is attached.

Respectfully,

By: s/ Jonathan Z. Cohen
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Attorney for Plaintiff

Date: November 21, 2016

CERTIFICATE OF SERVICE

I, Jonathan Z. Cohen, attorney for Plaintiff, certify that the foregoing document has been filed electronically and is available for viewing and downloading from the ECF system. The following parties have consented to electronic service:

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